

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TRENTON SILDACK,

Plaintiff,

Case No. 11-12939

Honorable Denise Page Hood

v.

CORIZON HEALTH, INC., et al.,

Defendants.

ORDER ACCEPTING REPORT AND RECOMMENDATION
and
DENYING MOTION TO DISMISS

This matter is before the Court on Magistrate Judge R. Steven Whalen's Report and Recommendation filed February 22, 2012 [**Doc. No. 69**] on Defendants' Motion to Dismiss [**Doc. No. 23**].¹ The time to file Objections has passed and no Objections have been filed to date.

The standard of review by the district court when examining a Report and Recommendation is set forth in 28 U.S.C. § 636. This Court "shall make a *de novo* determination of those portions of the report or the specified proposed findings or recommendations to which an objection is made." 28 U.S.C. § 636(B)(1)(c). The Court "may accept, reject or modify, in whole or in part, the findings or recommendations made by the Magistrate." *Id.*

In order to preserve the right to appeal the Magistrate Judge's recommendation, a party must file objections to the Report and Recommendation within fourteen (14) days of service of the Report and Recommendation. Fed. R. Civ. P 72(b)(2). Failure to file specific objections constitutes a

¹ Defendants filed an Amended Motion to Dismiss on September 21, 2011 [**No. 42**] which was later withdrawn by Defendants [**No. 58**] on October 24, 2011.

waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Secretary of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

After review of the Magistrate Judge's Report and Recommendation, the Court finds that his findings and conclusions are correct. The Court agrees with the Magistrate Judge that Plaintiff need not exhaust his administrative remedies under 42 U.S.C. § 1997e(a) since Plaintiff has been released from prison. The Court further agrees with the Magistrate Judge that Plaintiff has sufficiently pled facts to support plausible claims against Defendants Suzanne B. Kirk., N.P. and Corizon Health, Inc.

Accordingly,

IT IS ORDERED that Magistrate Judge R. Steven Whalen's February 22, 2012 Report and Recommendation [**No. 69**] is ACCEPTED and ADOPTED as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss [**No. 23, filed 8/23/2011**] is DENIED.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: March 21, 2012

I hereby certify that a copy of the foregoing document was served upon Trenton Sildack, 5802 S. Lincoln Blvd, Marion, IN 46953-6208 and counsel of record on March 21, 2012, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry
Case Manager